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Tennessee
State Government

Guide for Injured Workers Who Do Not Have Lawyers

*How to represent yourself in the
Court of Workers' Compensation Claims
and the Appeals Board*

Updated September 2020



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PART ONE

In the Tennessee Court of Workers' Compensation Claims

INTRODUCTION

This booklet will assist you with your workers' compensation claim if you do not have a lawyer. The Ombudsman Program can also help. Call 1-800-332-2667. For more information about [the Ombudsman Program](#), go to the Bureau's website.

WHAT ARE WORKERS' COMPENSATION BENEFITS?

Workers' compensation benefits are benefits your employer provides when you are recovering from a workplace accident. An employee who suffers an injury at work, might be entitled to one or more of these benefits. If an employee is killed at work, a spouse or dependent of the deceased employee might be eligible.

There are four basic types of workers' compensation benefits:

Medical Treatment for the Work Injury

Temporary Disability Benefits

Permanent Disability Benefits

Death Benefits

Medical Benefits: If your employer does not know that you were hurt at work, you must immediately notify your supervisor, in writing if possible. Then your employer will give you a list of at least three doctors. You will pick one doctor, who will become the "authorized treating physician." Any treatment this physician recommends is

presumed reasonable and necessary to treat your injury and should, in most cases, be approved by the adjuster.

Temporary Disability Benefits: If the authorized treating physician takes you completely off work while you are recovering from your work injury, you might be entitled to **temporary total disability benefits** to help replace your lost wages. These benefits are generally two-thirds of the weekly wages you were earning in an average week during the year before your work injury.

If the authorized treating physician returns you to work temporarily but prohibits certain tasks or reduces your hours while you recover, you might be entitled to **temporary partial disability benefits** if your employer does not allow you to return to work under the doctor's restrictions. Temporary partial disability benefits are calculated in the same way as temporary total disability benefits, except your employer pays you two-thirds of the difference between your pre- and post-injury pay.

Temporary disability benefits end when you return to work or your treating physician determines that you have recovered as much as possible. This is known as "maximum medical improvement" and could occur even if you have a permanent impairment.

If you were denied temporary disability benefits and believe that you are entitled to them, you must provide a doctor's note showing: you missed work due to the work injury; the work days that you missed or the hours that you lost; **and** you were not at maximum medical improvement.

Permanent Disability Benefits: You might be entitled to permanent disability benefits if a doctor states in writing that your work injury will leave you with a permanent impairment. (An example: if you lost a finger while operating a band saw, that finger will never grow back, and you will be left with a permanent impairment.) When your doctor determines that you have a permanent impairment and have reached maximum medical improvement, the doctor will assign an impairment rating for your injury. The impairment rating is expressed as a percentage. If that happens, you are likely entitled to permanent disability benefits.

Death Benefits: If you are the spouse or dependent of someone who died in a work accident, you might be entitled to benefits, including burial expenses and permanent disability benefits. Certain relatives of an employee who died in a work accident

might also be entitled to benefits if the relative was dependent on the deceased employee. You must prove that the work accident caused your spouse's, parent's, or relative's death. This will require a doctor's opinion.

PROVING YOUR CLAIM

Elements of a Claim: You, as the injured worker, have the responsibility of proving all elements of your claim, including:

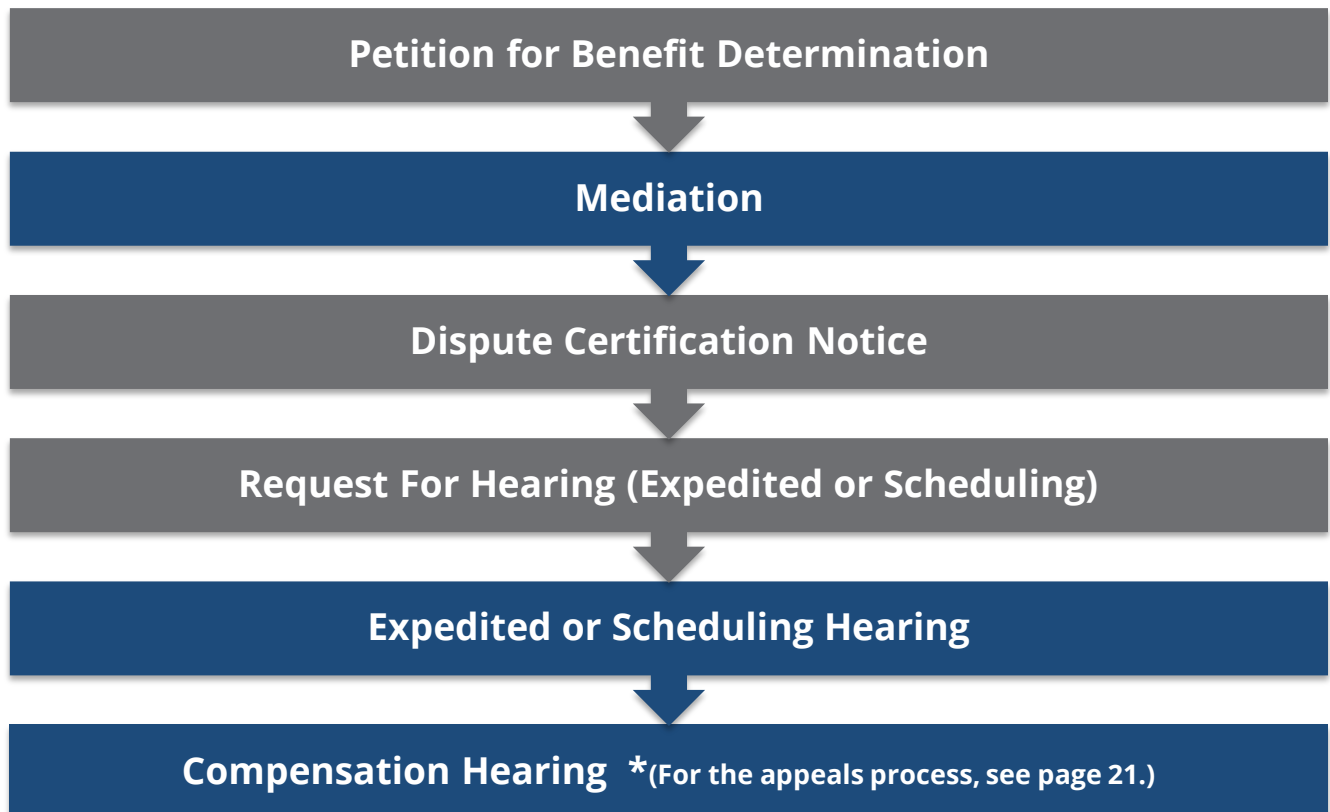
- The date, time, and events that resulted in your injury;
- A doctor's opinion showing that:
 - The accident at work caused the injury and the need for medical treatment; and
 - The treatment you received for the injury is reasonable and necessary;
- In a claim for temporary disability benefits, that a doctor has placed you on restrictions due to your work-related injury or has taken you off work completely;
- That you have not fully recovered from your injury, which means that you have not reached maximum medical improvement; and,
- In a claim for permanent disability benefits, the fact that your injury is permanent and the impact it has on your ability to work.

Legal Definition of "Injury": The Workers' Compensation Law requires you to prove that your injury "arose primarily out of and in the course and scope of employment." This means you must prove the accident or incident "contributed more than fifty percent (50%) in causing the death, disablement, or need for medical treatment, considering all causes." In most cases, you will need a doctor's opinion to prove this.

The authorized treating physician usually provides this opinion, which is presumed correct. However, if you disagree with the authorized treating physician's opinion, you can always ask another doctor for a different opinion and present that to the judge.

HOW A CLAIM MOVES THROUGH THE TRIAL COURT

The Tennessee Court of Workers' Compensation Claims, also known as the "trial court," hears cases involving a work injury on or after *July 1, 2014*, when injured workers are not receiving benefits they believe that they are entitled to receive. The chart below shows the stages of a typical case as it moves through the trial court.



Petition for Benefit Determination: The first step is to file a "[Petition for Benefit Determination](#)" (PBD) with the Bureau. The petition is available on the "Forms" link of the Bureau's website. After you file your PBD, your case will be assigned to an ombudsman, who works with you and your employer to try to reach an agreement on your benefits.

Mediation: If the parties do not reach an agreement with the ombudsman, your case will be assigned to a mediator. The mediator will contact all parties to learn about the issues and may bring everyone together, over the phone or in person, to try to resolve the dispute.

Dispute Certification Notice: If you do not reach an agreement, the mediator will complete a “Dispute Certification Notice” (DCN). After you receive the DCN, review it carefully. If information is missing, you have five business days to notify the mediator of any information you want added to the DCN. After adding the information, the mediator will file the DCN with the trial court clerk. The judge can only decide the issues listed on the DCN.

Once the DCN is filed, you have 60 days to request a hearing. If you do not file a hearing request within that time, you will be required to participate in a telephone “show cause” hearing. At that hearing, you must explain why you have not requested a hearing. The judge might dismiss your case if you do not call.

After the DCN is filed, you should request within the next 60 days: 1) a scheduling hearing, or 2) an expedited hearing.

Expedited or Scheduling Hearing:

Scheduling Hearing: If you have already received medical care and recovered from your injury, your doctor has assigned a permanent impairment rating, and you and your employer/adjuster cannot agree on the amount of permanent benefits you are entitled to receive, you should file a [“Request for Scheduling Hearing.”](#) A scheduling hearing is held by telephone. A judge will set deadlines for preparing the case for the next stage, which is a compensation hearing. The “Request for Scheduling Hearing” form is available on the “Forms” link of the Bureau’s website.

Expedited Hearing: If you have not received the temporary disability benefits or medical benefits that you believe you should receive and you are asking the judge to order your employer to immediately provide medical care or pay temporary disability benefits, you will need to file a [“Request for Expedited Hearing.”](#) The form is available on the “Forms” link of the Bureau’s website.

If you request an Expedited Hearing, you must also file an “affidavit” – a sworn, notarized written statement of the facts – and any other information, including medical records, showing why you are entitled to benefits. A blank affidavit and a certificate for obtaining medical records are available at [the Court’s website](#).

After the expedited hearing, the judge will write an order explaining whether your employer must provide medical care and/or temporary disability benefits or whether your claim has been denied. If your claim is denied at this point, you may still be eligible to proceed to the next stage.

Compensation Hearing: After the parties have collected all the evidence, including proof of an impairment rating, you will appear before the judge for a final hearing, known as a “compensation hearing” or simply a “trial.” After the hearing, the judge will write an order explaining whether you will receive workers’ compensation benefits, including permanent disability benefits.

HEARING CHECKLISTS

Be better prepared for your hearing with these helpful checklists. You might need every item on the list.

Expedited Hearing: Unless otherwise stated, **all items** must be filed with your Request for Expedited Hearing:

- | | |
|--|--|
| <input type="checkbox"/> Your affidavit
<i>A Bureau ombudsman may notarize it.</i> | <input type="checkbox"/> Proof of Work Restrictions <ul style="list-style-type: none">• Off-work notes
or• Statements restricting you from performing certain tasks. |
| <input type="checkbox"/> Affidavits from other witnesses (if there are other witnesses) | |
| <input type="checkbox"/> Medical records <ul style="list-style-type: none">• Medical records signed by the medical provider
<i>(Electronically signed is permissible)</i>
or• Authenticated medical records. A “medical record certification” form is available at the Court’s website. | <input type="checkbox"/> Medical bills and a doctor’s opinion stating that the medical bills are related to treatment required for your work injury. |
| <input type="checkbox"/> Proof of Causation <ul style="list-style-type: none">• Causation letter from the doctor stating that your work caused your injury
or• A statement within the medical records that relates your injury to your work. | <input type="checkbox"/> Subpoenas for anyone you want to speak or testify <i>You can obtain these from the trial court clerk and personally serve them on the person(s) you wish to call to testify at the hearing. You must serve a subpoena at least five business days before the hearing, or the judge might not enforce it.</i> |
| | <input type="checkbox"/> Witness list
<i>If you have listed your witnesses on page 2 of your Request for Expedited Hearing, you do not need to submit a separate list.</i> |
| | <input type="checkbox"/> Proof of your earnings
<i>such as pay stubs</i> |

Late Documents: If you obtain additional documentation after filing your Request for Expedited Hearing that supports your request for benefits, you may file it with the trial court clerk before the hearing and/or bring this to the hearing. You must **provide a copy** of the new information to the employer’s lawyer as soon as possible after you obtain it. The judge will decide if it is admissible evidence.

Compensation Hearing: Unless otherwise stated, or unless the judge gives other instructions, **all documents** must be filed no later than ten business days before the compensation hearing.

☐ Medical records regarding your workers' compensation injury

☐ [Form C-32 Standard Medical Report](#)

You can find this form at the "Forms" link on the Bureau's website. See pages 16-17.

☐ Deposition transcripts

See page 14 for a definition.

☐ [Pre-hearing Statement](#)

You must file a prehearing statement with the trial court clerk before the compensation hearing. The "[Pre-Compensation Hearing Statement Template](#)" is available at the Court's website.

☐ Witness and exhibit lists

If this information is not provided in the Pre-hearing Statement.

☐ Subpoenas for anyone who you want to speak or testify on your behalf

*You can obtain these from the trial court clerk and must **personally serve** them on the person(s) you wish to call to testify at the hearing. You must serve a subpoena at least five business days before the hearing, or the judge might not enforce it.*

☐ Proof of your earnings

Such as pay stubs.

Late Documents: If you obtain additional documentation after filing your Pre-hearing Statement that supports your request for benefits, you may file it with the trial court clerk before the hearing and/or bring this to the hearing. You should **provide a copy** of this additional information to the employer's lawyer as soon as possible after you obtain it. The judge will decide if it is admissible evidence.

RULES OF THE TRIAL COURT

This section provides a brief overview of trial court rules and procedures. Even if you do not have an attorney, you still must **abide by all Court rules**.

Rules: The Court follows the “[Rules of the Court of Workers’ Compensation Claims and Alternative Dispute Resolution](#),” available at the Court’s website.

Tennessee Rules of Evidence and Civil Procedure: The Tennessee Rules of Evidence and the Tennessee Rules of Civil Procedure apply at all hearings. They are available at the Tennessee Administrative Office of the Courts’ website, tncourts.com.

The Tennessee Rules of Evidence guide the judge in deciding whether evidence—any paper, item, recording, or testimony presented to the judge—can be considered when deciding the case. The Tennessee Rules of Civil Procedure guide the judge and the parties in preparing and trying a case.

THE DISCOVERY PROCESS

Types of Discovery: Before your hearing, the parties will want to see the information and documents the other side has about the case. Discovery is the process through which you and your employer gather and exchange information. The three most common discovery methods are:

- 1. Interrogatories:** These are written questions asking for information about your case and must be answered under oath. You or your employer's lawyer may ask no more than 20 questions without the judge's permission.
- 2. Depositions:** These are verbal questions asked of any witness by you or your employer's lawyer under oath. A court reporter records all questions and answers. The written transcript is available from the court reporter for a fee.
- 3. Requests for Production:** These are written questions asking for copies of specific documents, recordings, photographs, or other items and must be answered under oath.

Responding to Discovery: Whenever you receive interrogatories or a request for production of documents, you *must* provide the answers or requested documents within 30 days unless the judge gives an extension. When answering the interrogatories, your responses *must* be signed and notarized.

In addition, you must cooperate in scheduling depositions. If you wish to depose a witness, you must hire a court reporter to record the deposition.

Unless specifically requested by the judge or filed with a "Motion to Compel Discovery," you should not file discovery responses or requests with the trial court clerk. Instead, you should send these responses to the employer's lawyer.

Discovery Disputes: When you and your employer's lawyer disagree over whether a discovery response is required, you may file a "Motion to Compel Discovery." In the motion, you should describe what you are seeking, explain how you tried to resolve the dispute with your employer's lawyer before filing the motion, and ask the judge to order your employer's lawyer to provide it. You must provide your employer's lawyer a copy of the motion when you file it.

PREPARING FOR TRIAL

Pre-trial Documentation: As trial approaches, you must complete several important tasks. These are explained in the [Rules of the Court of Workers' Compensation Claims and Alternative Dispute Resolution](#). If you do not follow these rules, the judge might not allow your witness to testify, or your document to become an exhibit.

Witness and Exhibit Lists: If your trial is an expedited hearing, you must provide a witness list at the time you file the [Request for Expedited Hearing](#). If your trial is a compensation hearing, you must provide a witness and exhibit list no later than 10 days before the hearing. If your trial is a compensation hearing, you must list your witnesses and exhibits in your Pre-hearing Statement (see below).

Medical Records: The law allows your employer to obtain copies of your medical records from the doctor who treated your work injury if the employer paid the bill. Additionally, the judge might require you to sign medical releases allowing your employer's lawyer to obtain records from another doctor especially if you had a previous injury or surgery for the same body part.

Medical Records Certification

- A form certifying medical records are correct and verified

C-32 Form

- A form doctors use to give their medical opinion

When you file medical records with the trial court clerk, make sure that your doctor has either signed the records by hand or electronically. If the medical records are not signed, you will need to attach a "[Medical Records Certification](#)" signed by staff at your doctor's office. This form is available at the Court's website.

Pre-Compensation Hearing Statement: You must, either separately or with your employer's lawyer, file a prehearing statement with the trial court clerk before the trial. Use the "[Pre-Compensation Hearing Statement Template](#)" at the Court's website.

YOUR DAY IN COURT

The chart below summarizes the events in a trial.



Opening Court: Court will begin promptly, so arrive early. If you are going to be late, please contact the judge’s legal assistant, staff attorney or the trial court clerk.

Opening Statements: After calling the case, the judge might ask for an opening statement. This is your first opportunity to tell your story and say what you want the judge to do.

In general, you, as the injured worker, have to prove that you should win the case based on the facts and the law. That means that you must have stronger evidence than your employer. The “strength” of your evidence is based on who the judge determines is more believable, which documentary evidence is more persuasive, or both.

You must introduce a doctor’s opinion on the cause of your injury or your permanent impairment. The doctor’s opinion must be provided through deposition testimony, live testimony, or a [form C-32](#) available at the Court’s website. You must pay the fees

associated with a doctor's testimony, including the doctor's expert fee for testimony, the court reporter's fee for taking the deposition, and/or the doctor's fee for completing the form C-32. There are specific rules to follow in filing a completed C-32. You should ask an ombudsman or ombudsman attorney to provide you the applicable rule so that you will be aware of the requirements you must meet. You must follow all deadlines for obtaining the doctor's testimony and filing the deposition transcript or form C-32.

Questioning Witnesses: Be prepared to testify. This is where you tell the judge how your injury occurred, when you notified your employer, the type of medical treatment you received and whether you missed work, and how the injury affected your ability to work and do other daily activities. You cannot use "hearsay." **Hearsay** is when you say what you heard from someone else who is not present in the courtroom, and you want the judge to accept that statement as true. Most of the time, you can only testify about what you know, saw or said. You cannot testify about what someone else knows, saw or said. Afterward, your employer's lawyer will ask you questions. This is called cross-examination. You might have seen this on TV or in the movies.

You may also bring witnesses to testify on your behalf. You must present your witnesses' testimony by asking them questions.

Your employer will probably also bring someone to testify. After your employer's lawyer asks their witnesses questions, you may cross-examine them.

Presenting Exhibits: You might have letters, medical bills, reports, copies of emails or text messages, videos, photographs, or other proof about which a witness will testify. These are called exhibits. Generally, you can only use an exhibit if the witness personally can identify it, so ask your witness to look at the exhibit and identify it. Afterward, ask the judge to "admit the exhibit into evidence."

Closing Arguments: After both sides have presented witnesses and proof, the judge will let you give closing arguments. This is your last chance to tell the judge about your proof and to say why you should win. You will go first, then your employer's lawyer will make a closing argument. The judge might let you answer the employer's closing argument.

After the hearing, the judge will send a written order. If you think the judge is incorrect, you may appeal the order. See part two of this booklet on how to appeal.

MOTIONS

You might receive a document from the employer's lawyer with the title "Motion." A motion is a request for the judge to do something. Many types of motions are possible, and some motions could result in dismissal of your case, such as a "Motion to Dismiss" or "Motion for Summary Judgment." You can file a motion, too. If you wish to file a motion, [a template](#) is available on the Court's website.

Responding to Motions: You must **timely respond** to any motion in writing, file it with the trial court clerk, and send a copy to your employer's lawyer.

The time you have to respond depends on the type of motion. If your employer is not asking the judge to dismiss your case, you must file a response within **five business days** after your employer's lawyer files the motion. The judge decides based on the motion and your response. If you receive a Motion to Dismiss or a Motion for Summary Judgment, you must respond no later than **five business days** before the motion is set for a hearing. The judge will hold a hearing to dismiss or for summary judgment over the phone.

Motions for Summary Judgment: A motion for summary judgment is an allegation by the employer that you lack the proof to prove your claim. It has three basic parts: the motion, the statement of undisputed material facts, and the memorandum of law. Motions for summary judgment are difficult to respond to, because the rules have very specific requirements for what must be contained in the response. You must respond to the statement of undisputed material facts, or you will likely lose your case.

A statement of undisputed material facts is a numbered list of each important fact that will determine who wins the case. The statement will have each fact listed in a separate numbered paragraph. You must write a written response to each numbered fact explaining why it is disputed. For instance, if one of the paragraphs reads: "the treating physician found that the employee's injury is not work-related, and the employee has not provided an opinion from another doctor to dispute the treating physician's opinion," you must respond that the fact is disputed and you have an opinion from another doctor who believes your injury is work-related. You must identify the doctor in your response.

Motions to Dismiss: Your employer's lawyer can ask the judge to dismiss your case for a variety of reasons by filing a Motion to Dismiss. Any motion to dismiss

must state the reason that the opposing party requests dismissal and cite to a Rule of Civil Procedure. Be sure to read the rule before filing your written response to the motion.

Be prepared to testify about these elements. You can also call other witnesses to testify. However, as described above, several key elements cannot be proven without a doctor's opinion.

WHO CAN HELP?

The Trial Court Clerk: To file a document, you must give it to the trial court clerk (email, U.S. mail, fax or in-person) or upload it on TNComp, the electronic filing system. The trial court clerk also answers procedural questions.

Legal Assistants and Staff Attorneys: They help judges by preparing files for hearings, doing legal research and editing orders. If you need to speak with someone about your case, contact one of the Court's legal assistants or staff attorneys. They can answer questions about rules and procedures, but they cannot give legal advice.

An Ombudsman: A Bureau employee who provides information but not legal advice to self-represented litigants. They answer general questions regarding the workers' compensation process. Call (800) 332-2667.

An Ombudsman Attorney: If you were injured at work on or after July 1, 2017, you might be eligible to receive assistance from the ombudsman attorney. The ombudsman attorney may give limited legal advice, but he cannot appear in court, write court documents, or communicate with your employer's lawyer on your behalf. Listen carefully and take detailed notes when discussing your case with the ombudsman attorney.

PART TWO

In the Tennessee Workers' Compensation Appeals Board

APPEALING AN EXPEDITED HEARING ORDER

Notice of Appeal: If you wish to appeal an **expedited hearing order**, or any other trial court order that does not fully resolve all issues in the case (called an "interlocutory" order), you have **7 business days** from the date stamped on the trial court's order to file a "[Notice of Appeal](#)" with the trial court clerk. The form is available on the Appeals Board's website.



Transcript of the Hearing/Statement of the Evidence: It is highly recommended, though not required, that you file a transcript of the hearing(s) that occurred before the trial judge or a joint statement of the evidence signed by you and the employer's lawyer. If your employer filed the Notice of Appeal, you should communicate with your employer's lawyer soon after receiving the notice to determine whether the employer intends to file a hearing transcript. If not, you might wish to file a transcript. A transcript or statement of the evidence must be filed with the trial court clerk within **10 business days** from when you or your employer filed the Notice of Appeal.

- If a court reporter was present at the hearing, you may purchase a copy of the transcript from him or her. If a court reporter was not present, you may request a copy of the trial court's recording of the hearing from the trial court clerk for a \$25 fee and hire a licensed court reporter to transcribe the recording.
- Instead of filing a transcript, you and your employer's lawyer may file a "joint statement of the evidence," which is a written summary of the **testimony** presented at the hearing. The statement does not have to summarize documentary evidence, only oral testimony. The joint statement of the evidence must be prepared and signed by both parties and must be approved by the trial judge.
- If you do not file a transcript or a joint statement of the evidence, the Appeals Board's ability to conduct a meaningful review of your case will be limited.

Brief: If you are the appealing party, it is recommended that you file a brief explaining why you believe the trial judge was correct or incorrect. A brief should contain: (1) a summary of the facts; (2) how the trial judge ruled in your case; (3) each issue you wish to present on appeal; and (4) your argument as to why you believe the trial judge's order was right or wrong as to each issue. *You cannot attach any documents to your brief or rely on any evidence to support your brief unless that evidence was admitted during your hearing or was excluded by the trial judge but marked for "identification only."* You can find a list of that evidence in the "record on appeal," which is discussed further below. If you filed the Notice of Appeal, your brief must be filed with the trial court clerk within **10 business days** of the expiration of the time to file a transcript or statement of the evidence. Your employer will then have an opportunity to file a brief in response. You may respond to your employer's brief

only if your employer raises issues on appeal that you did not raise in your brief, and you may only address the new issues.

If your employer filed the Notice of Appeal, you may respond in writing to any brief filed by your employer's lawyer. If the employer does not file a brief, you may still file your own. In your brief, explain why you agree with the trial judge's decision and/or why you disagree with the employer's arguments. You can also discuss other issues not discussed by the employer in its brief. Your brief must be filed with the trial court clerk within **10 business days** of the date the employer's brief was filed or was due. The "argument" section of your brief is limited to 15 pages. You may ask for permission from the Appeals Board to submit a longer brief if necessary.

Record on Appeal: After a Notice of Appeal is filed, the trial court clerk will create the "record on appeal." This includes the documents designated by the trial court as the "technical record," the documentary evidence presented at the hearing (the "exhibits"), the transcript or joint statement of the evidence, and the briefs. The trial court clerk will then send the record to the Appeals Board clerk, who will send a "Docketing Notice" to inform all parties that the Appeals Board received the appeal. You are not required to take any additional action at this point.

Appeals Board's Opinion: Within **20 business days** of the date on the Docketing Notice, the Appeals Board will issue a written decision called an "opinion" affirming, reversing, or modifying the trial judge's order. The opinion is binding on the parties and the trial judge. The Appeals Board will also "remand" the case, which means it will be sent back to the trial judge for any further action. Neither you nor your employer's lawyer can appeal the Appeals Board's opinion reviewing an expedited hearing order or other interlocutory order.

EXPEDITED HEARING ORDER APPEAL CHECKLIST

For this type of appeal, file all documents with the **trial court clerk**.

- ☐ File a [Notice of Appeal](#) within **7 business days** of the date stamped on the trial judge's order.
- ☐ Pay the \$75 filing fee within **10 calendar days** of filing the Notice of Appeal.
*If unable to pay, file an [Affidavit of Indigency](#) within **10 calendar days** of filing the Notice of Appeal.*
- ☐ Testimony from the Trial Court Hearing
*File **either** within **10 business days** of filing the Notice of Appeal.*
 - **Hearing Transcript**
 - Was a court reporter present?
 - If so, you can **purchase a transcript** from the court reporter.
 - If not, you can **purchase a recording** of the hearing from the court and pay a court reporter to transcribe it.
 - **Joint Statement of the Evidence**
If you do not provide a hearing transcript, you can prepare and file a joint statement of the evidence, which is a written summary of witness testimony. This written summary must be approved by both sides and by the trial judge. Contact your employer's lawyer to prepare this.
- ☐ Brief
 - If *you* filed the Notice of Appeal, file a brief within **10 business days** of the expiration of the time to file a transcript or joint statement of the evidence.
 - If your *employer* filed the Notice of Appeal:
 - File a brief in response to your employer's brief within **10 business days** after it is filed.
 - If your employer did not file a brief, you may file a brief within **10 business days** after your employer's deadline to file one has passed.

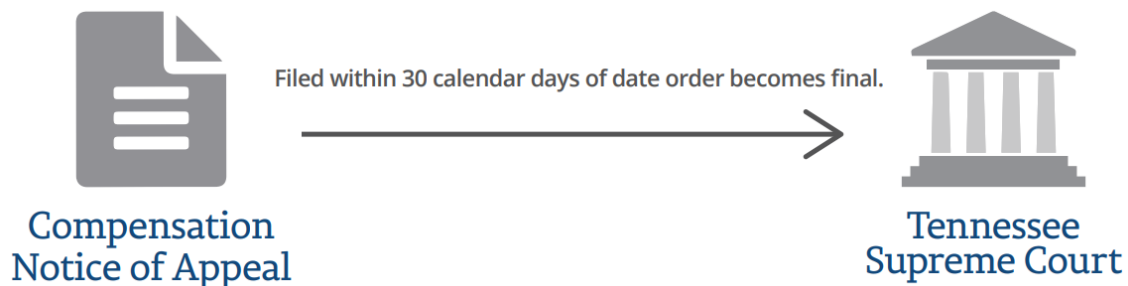
APPEALING A COMPENSATION HEARING ORDER

Choice of Forum/Time: After the final compensation hearing, the trial judge will issue a compensation hearing order resolving all the issues in your case. You might also receive this kind of order after the filing of a motion to dismiss or a motion for summary judgment. If you wish to appeal this order to the Appeals Board, you have **30 calendar days** from the date stamped on the trial judge's order to file a [Notice of Appeal](#) with the trial court clerk.

After the case has gone through the process with the Appeals Board and the Appeals Board has issued its decision, you may appeal that decision to the Tennessee Supreme Court. You have **30 calendar days** after the Appeals Board certifies the trial court's order as final to file a notice of appeal with the Tennessee Supreme Court as allowed by the [Tennessee Rules of Appellate Procedure](#). These rules are available at the Tennessee Administrative Office of the Courts' website.



In the alternative, after you and your employer receive a compensation hearing order, either party may appeal directly to the Tennessee Supreme Court once that order becomes final (which occurs after the 30th day from issuance if there is no appeal to the Appeals Board).



COMPENSATION APPEALS TO THE APPEALS BOARD

Transcript of the Hearing/Statement of the Evidence: It is highly recommended, though not required, that you file a transcript of the hearing or a joint statement of the evidence. If your employer filed the Notice of Appeal, you should communicate with your employer's lawyer soon after receiving the Notice to determine whether your employer intends to file a hearing transcript. If it does not, you may wish to file a transcript. If you do not file a transcript or a joint statement of the evidence, the Appeals Board's ability to conduct a meaningful review of your case will be limited. A transcript or statement of the evidence must be filed with the trial court clerk within **15 calendar days** of the date the Notice of Appeal was filed.

- If a court reporter was present at the hearing, you may purchase a copy of the transcript from him or her. If a court reporter was not present, you may request a copy of the trial court's recording of the hearing from the trial court clerk for a \$25 fee and hire a licensed court reporter to transcribe the recording.
- Instead of filing a transcript, you and your employer's attorney may file a "joint statement of the evidence," which is a written summary of the **testimony** presented at the trial. The statement does not have to summarize documentary evidence, only oral testimony. It must be prepared and signed by both parties and must be approved by the trial judge.
- If you choose to provide neither a transcript nor a statement of the evidence, you must file a notice with the trial court clerk within **15 calendar days** of the date the Notice of Appeal was filed stating that no transcript or statement of the evidence will be provided.

Record on Appeal: The record on appeal consists of the documents the trial court designated as the "technical record" at the trial, the exhibits admitted into evidence during the trial, and the transcript of the hearing or joint statement of the evidence. After the trial judge has approved the "record on appeal," the trial court clerk will send the record to the Appeals Board clerk, who will send a Docketing Notice to all parties acknowledging receipt of the record.

Brief: If you filed the Notice of Appeal, you may file a brief explaining why you believe the trial judge was right or wrong. If your employer filed the Notice of Appeal, you may respond to your employer's lawyer's brief, and you may file a brief even if the employer does not file one.

A brief should contain: (1) a summary of the facts; (2) how the trial judge ruled in your case at the final hearing/trial; (3) each issue you wish to raise on appeal; and (4) your argument stating why you believe the trial judge's order was right or wrong as to each issue on appeal. If you filed the Notice of Appeal, your brief must be filed with the Appeals Board clerk within **15 calendar days** of the date the Docketing Notice was issued. If your employer appealed, your brief must be filed with the Appeals Board clerk within **15 calendar days** after your employer filed a brief or after their brief was due.

The "argument" section of your brief is limited to 15 pages. You may ask for permission from the Appeals Board to submit a longer brief. Also, *you cannot refer to, attach, or rely on any documents, medical records, witness statements, photographs, or other documentation unless that material was previously submitted to the trial judge and admitted into evidence during your trial, or was excluded by the trial judge but marked for "identification only."*

Appeals Board's Opinion: Within **45 calendar days** after the briefing period has ended, the Appeals Board will issue a written opinion affirming, reversing, or modifying the trial judge's order. Depending on which of these actions the Appeals Board takes, the opinion will also either remand the case to the trial court for additional action, or it will certify the trial court's decision as final. If the Appeals Board certifies the decision as final, and if you are dissatisfied with this decision, you may appeal to the Tennessee Supreme Court as provided in the [Tennessee Rules of Appellate Procedure](#).

COMPENSATION HEARING ORDER APPEAL CHECKLIST

Unless otherwise stated, file all documents with the **trial court clerk**.

- ☐ File a Notice of Appeal within **30 calendar days** of the date stamped on the trial judge's order.
- ☐ Pay the \$75 filing fee within **10 calendar days** of filing the Notice of Appeal.
*If unable to pay, file an [Affidavit of Indigency](#) within **10 calendar days** of filing the Notice of Appeal.*
- ☐ Testimony from the Trial Court
*File within **15 calendar days** of filing the Notice of Appeal.*
 - **Hearing Transcript**
 - Was a court reporter present?
 - If so, you can **purchase a transcript** from the court reporter.
 - If not, you can **purchase a recording** of the hearing from the court and pay a court reporter to transcribe it.
 - **Joint Statement of the Evidence**
If you do not provide a hearing transcript, you can prepare and file a joint statement of the evidence, which is a written summary of witness testimony. This written summary must be approved and signed by both sides and by the trial judge. Contact your employer's lawyer to prepare this.
 - If you do not wish to file either a transcript of the hearing or a joint statement of the evidence, file a notice stating that you will be filing neither document.
- ☐ Brief
 - If *you* filed the Notice of Appeal, file a brief with the Appeals Board clerk within **15 calendar days** after the date the Docketing Notice was issued.
 - If your *employer* filed the Notice of Appeal:
 - File a brief with the Appeals Board clerk in response to your employer's brief within **15 calendar days** after it is filed.
 - If your employer did not file a brief, you may file a brief with the Appeals Board clerk within **15 calendar days** after your employer's deadline to file one has passed.

MISCELLANEOUS TOPICS

Requesting an Extension of Time: Neither you nor your employer may request an extension of time for filing a Notice of Appeal. If you fail to file your Notice of Appeal within the time period required by the law, your appeal will be dismissed.

However, for any other deadlines in the appeals process, you may file a written request, called a “Motion for Extension of Time,” with the Appeals Board clerk to ask for more time. In an appeal of an expedited hearing order, the Appeals Board may extend deadlines up to **5 additional business days**. In an appeal of a compensation hearing order, the Appeals Board may extend deadlines up to **21 additional calendar days**.

Paying the Filing Fee: If you appeal, you must pay a \$75 filing fee. You may pay by check, money order, or credit card within **10 calendar days** of filing the Notice of Appeal. It can be paid in person at any Bureau office, by mail, or by any other delivery service.

Filing an Affidavit of Indigency on Appeal: If you cannot afford the filing fee, you may file an “[Affidavit of Indigency](#)” with the trial court clerk. The Affidavit of Indigency *must be fully completed* and either filed with your Notice of Appeal or within **10 calendar days** after you file the Notice. The Appeals Board might waive the fee. If not, you will be given a deadline to pay.

WHO CAN HELP?

The Clerks: The Appeals Board clerk and the trial court clerk can answer procedural questions, but they cannot give legal advice.

An Ombudsman: An ombudsman can answer general questions regarding the workers’ compensation process. Call (800) 332-2667 or email wc.ombudsman@tn.gov.

The Tennessee Department of Labor and Workforce Development is committed to principles of equal opportunity, equal access, and affirmative action. Auxiliary aids and services are available upon request to individuals with disabilities.



Tennessee Department of Labor and Workforce Development;
Authorizatoin No. 337639; 100 copies; September 2020. This
public document was promulgated at a cost of \$3.95 per copy.